

STATEMENT OF

THE HONORABLE KENNETH MAYFIELD

COMMISSIONER

DALLAS COUNTY, TEXAS

AND

FIRST VICE PRESIDENT

NATIONAL ASSOCIATION OF COUNTIES

ON

ELECTION REFORM

BEFORE THE

HOUSE ADMINISTRATION COMMITTEE

APRIL 25, 2001
WASHINGTON, DC

STATEMENT OF COMMISSIONER KENNETH MAYFIELD, DALLAS COUNTY, TEXAS AND FIRST VICE PRESIDENT OF THE NATIONAL ASSOCIATION OF COUNTIES BEFORE THE HOUSE ADMINISTRATION COMMITTEE

Mr. Chairman and members of the committee, thank you very much for inviting me to testify before your committee on election reform. I am a county commissioner in Dallas County, Texas and I am serving as First Vice President of the National Association of Counties (NACo).¹

We acknowledge that the Presidential election of November 2000 revealed weaknesses in the electoral system that must be addressed. Many citizens have experienced a significant loss of confidence in the system. In addition, the U.S. Supreme Court's ruling in *Bush v. Gore* raised the issue of equal protection; specifically equal probability of having a vote counted.

In most states, counties are primarily responsible for the administration of elections. To obtain a better understanding of this role, NACo worked with the Carl Vinson Institute of Government at the University of Georgia on a survey of county election funding. The survey was sent to 3,067 counties and had an impressive response rate with more than 1,400 counties completing the form. A summary of the survey results are attached to my statement.

It is clear from the survey that counties are largely funding elections with their own funds. The amount expended by counties ranges from less than \$100,000 annually for smaller counties to \$2 million annually for larger counties with less than one million population. The average expenditure for counties over one million is \$10.7 million.

The survey shows that 28.5 percent of counties received state funds to assist with election expenses. The average amount received was \$34,000. Over 80 percent of those counties indicated that state assistance was less than \$50,000. The survey also includes a number of questions on voter education and on poll workers which may be useful to the committee.

¹ The National Association of Counties (NACo) is the only national organization representing county government in the United States. Through its membership, urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organization are to: improve county government; serve as the national spokesman for county government; serve as a liaison between the nation's counties and other levels of government; and achieve public understanding of the role of counties in the federal system.

In my own county, depending on the elections cycle, we appropriated \$2.3 million to \$3 million each year for elections. We have 1.2 million registered voters. We also charge administrative fees to municipalities and special districts which amounts to about \$200,000 annually. We held 81 elections over the last eight years in Dallas County. In 1998, we spent \$3.7 million to replace all of our punch card machines with touch screen equipment for early voting and optical scan for election day. The newer machines are working well and we believe we made a sound investment.

In response to the problems in the November election, the National Association of Counties (NACo) and the National Association of County Recorders, Election Officials and Clerks (NACREC) created the National Commission on Election Standards and Reform. Its membership included urban and rural county officials, state election directors, other election experts, the NAACP and the League of Women Voters. The commission has met four times and approved its report and recommendations this last weekend in Portland, Oregon. The commissioner's recommendations will be considered and finally adopted next month by the NACo Board of Directors.

The experience of this past fall reveals not one overarching problem, but a number of problems, any one of which could be critical in a close election. These include problems of voter access, voting, uniformed and overseas voting, recount procedures, and the perception of partisanship in the operation of the system. We should not look for a single dramatic solution but for a sustained effort to eliminate all sources of error.

The commission's report addresses each of these problems and makes the following policy recommendations:

1. Counties should be encouraged and helped to upgrade voting systems to ensure, insofar as technically possible, that each person's vote is recorded and counted as that person intended. Voting systems include the equipment and its maintenance, the ballot, instruction and assistance, and safeguards like second-chance voting. However, we do not recommend a mandatory, nationwide conversion because no system has been shown to completely prevent error in the human-technology interface and a uniform national system would stifle innovation.

2. The choice of which systems to replace should be made at the state and local levels based upon an historical analysis of voting accuracy in each jurisdiction and an assessment of the public's confidence in the current system. Only a statewide analysis will tell if some areas have significantly higher vote residuals than others and if this pattern has persisted overtime.
3. Counties should undertake continuous improvement programs built around the collection and analysis of relevant data.
4. The federal government should collect data for analysis to develop benchmarks for each voting system.
5. Because the average vote residuals associated with DRE systems [touch screen equipment] are much higher than those with optical scan systems, we cannot endorse recommendations from disability advocates that only DRE systems with accessibility devices be eligible for federal assistance. We support the goal of full access for disabled citizens and recommend that the federal government support research, development and evaluation of such systems.
6. Fifteen states allow some combination of military and overseas votes to be counted if they arrive within a specified period of time after the election provided that they are postmarked on election day or earlier. In Florida, some votes arrived late with no postmark; therefore, election officials could not tell when they had been mailed. We recommend that the federal Voting Assistance Office investigate and promote steps to remedy this problem with some sort of authoritative indication as to when a ballot is returned.
7. The public has a clear interest in accurate election results and recounts should be conducted with dispatch to achieve that end. To the extent possible standards must be created in advance and, there should be a clear authority to establish uniform, expeditious procedures to deal with situations not anticipated in law or rules.

The commission's policy recommendations are further broken down by assigning responsibility to each level of government. We believe that the federal government should not adopt a regulatory approach. It can best address the weaknesses of the current system by funding improvements in equipment and administration, sponsoring research, and disseminating information. The states are best suited to reform procedures and provide oversight. Counties should focus on upgrading the management of elections through adequate staffing of registration and election functions, enhanced training for election officials, and the adoption of best management practices.

Role of the Federal Government

Our report sets out specific recommendations to the federal government, to the states and to counties. It would be pertinent to this hearing to spell out our recommendations on the role of the federal government.

A number of our recommendations require increased funding. These include the needs to upgrade equipment; to educate voters, poll workers, election officials, etc.; and to enhance the administrative capacity of election offices. The argument for federal funding is twofold: First, if voting is a fundamental right, then the probability of having one's vote count accurately should not be solely a function of local resources. Federal and state governments should help local governments to upgrade equipment to meet standards of reliability. Second, federal elections and federal rules for the conduct of all elections impose costs that have heretofore been borne entirely by state and local governments. The federal government should share in the general administrative costs of election systems.

Consequently, we recommend three programs:

- a grant to help state and local governments cover the one-time costs for upgrading voter registration and voting systems (hardware, software, and related services and supplies);
- an on-going formula-based funding program to share the cost of the administration of federal elections; and
- assistance in mailing election related materials as recommended by the National Association of Secretaries of State.

The funding for equipment should be based on application as local jurisdictions seek to replace equipment over time. They should apply to their state governments, which would consolidate requests to the federal government. Equipment purchases under this program must meet any applicable Federal Voting System Standards.

Funding for administration should be distributed to local election jurisdictions based upon measures of election activity and financial need. This money would come in every year without application.

WE RECOMMEND THAT ELIGIBILITY FOR EITHER PROGRAM BE CONTINGENT UPON A STATE HAVING ON FILE WITH ITS CHIEF ELECTION OFFICER A PLAN FOR PROVIDING EQUAL OPPORTUNITY TO ITS CITIZENS TO VOTE AND HAVE ALL THEIR VOTES COUNTED.

Research and Dissemination of Information

The FEC Office of Election Administration already has the responsibilities to conduct or sponsor research on the administration of elections and to disseminate information. We recommend increased funding for these functions. We also recommend that the Office undertake the following projects:

- an immediate update and continuing maintenance of Federal Voting Systems Standards;
- research on vote residuals associated with different voting systems;
- research on the ways in which voting equipment does or does not accommodate various disabilities;
- research on best management practices for election and voter registration offices;
- creation of a central repository of information on voting equipment problems and solutions reported by election officials;
- evaluation of the practicality of demonstrating the use of voting equipment in the polling place by such devices as continuous loop video; and
- collection and dissemination for use by state and local offices of educational materials for key audiences, e.g. voters, the press, poll workers, election officials.

Administration

Administration and awarding of grants should be separate from any agency that has enforcement responsibilities for compliance with voting and election laws. Responsibility for these program should lie with the Office of Elections Administration whether it remains with FEC or is made a separate agency.

Uniform and Overseas Voting

Fifteen states count military/overseas ballots received after the election as long as they are postmarked on or before election day. The problem is that some ballots arrive without postmarks or with illegible postmarks. We recommend that the Federal Voter Assistance Program address this issue to avoid future confusion over the counting.

My final point is that the public concern over the November election has created an opportunity to address shortcomings of the systems. Yet, we strongly urge an incremental approach. We should undertake reforms within the present system rather than creating new systems or imposing nationwide procedures on states and local governments. In addition to constitutional concerns over federalism, we believe that attempts at nationwide uniformity, such as a uniform national ballot, would be impractical at present, stifle innovation for the future, and greatly magnify the effects of unintended consequences. The beauty of federalism is that it allows experimentation and confines errors to smaller jurisdictions.

Mr. Chairman, thank you again for inviting NACo to testify. We want to work with you in developing federal legislation. We gave a lot of election experts in county government and they are available to help you. I would be pleased to answer any questions you may have.